

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 06-00079-01-CR-W-SOW
)	
CARLOS REYES-OROSCO,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Defendant was originally charged by Complaint with being an illegal alien in possession of a firearm. On February 28, 2006, the Grand Jury returned a three count indictment against defendant Carlos Reyes-Orosco. Defendant is charged with being an alien who having been previously deported was found in the United States without having obtained the consent of the Attorney General for re-application for admission (Count I), with being an alien illegally in the United States who possessed a firearm (Count II), and with being a felon in possession of a firearm (Count III).

On February 16, 2006, counsel for the defendant filed a motion pursuant to 18 U.S.C. § 4241(a) asking for a determination of defendant's mental competency. Defense counsel filed this motion based upon her conferences with the defendant and personnel from the jail where the defendant is housed.

Prior to a hearing on the issue of defendant's competency, the Court ordered defendant to undergo a psychiatric examination concerning his ability to stand trial. On May 18, 2006, the Court held a hearing on the Motion for Determination of Competency, doc. # 12. At that time, the only evidence presented was the Psychiatric Evaluation of Dr. Logan dated May 16, 2006. Dr. Logan concluded that "[w]hile Mr. Orosco is suffering from a depressive episode, a mental disease,

it is my opinion that he retains the ability to understand the nature and consequences of the proceedings against him, or to assist properly in his own defense.” (Report of May 16, 2006 at 11) However, Dr. Logan also indicated that the opinion was issued with the understanding that Mr. Orosco would be restarted on appropriate psychotropic medications for his depression. (Id.)¹

Thereafter, the Court became aware that it was uncertain whether Mr. Orosco would be restarted on psychotropic medications. Accordingly, Dr. Logan did a follow-up evaluation of the defendant dated June 19, 2006. The parties filed a stipulation, doc. # 31, that the Court could consider this additional information in determining the issue of defendant’s competency. While of the belief that the defendant was in need of a mental health evaluation once he is transferred from the institution where he is currently incarcerated, Dr. Logan concluded that the defendant currently retains the ability to understand the nature and consequences of the proceedings against him and to properly assist in his own defense. (Report of June 19, 2006 at 5)

Therefore, based on the information before the Court, it is

RECOMMENDED that the Court, after making an independent review of the record and applicable law, enter an order finding that defendant Carlos Reyes-Orosco is not currently suffering from a mental disease or defect which would prevent him from understanding the nature and consequences of the proceedings against him or assisting in his own defense and that he is competent to stand trial.

Counsel are reminded they have ten days from the date of the receipt of a copy of this Report and Recommendation within which to file and serve objections to same. A failure to file and serve timely objections shall bar an attack on appeal of the factual findings in this Report and

¹At some point Mr. Orosco had been started on the drug seroquel, but this medication had been discontinued by the time of Dr. Logan’s initial evaluation.

Recommendation which are accepted or adopted by the district judge, except on grounds of plain error or manifest injustice.

/s/ Sarah W. Hays
SARAH W. HAYS
UNITED STATES MAGISTRATE JUDGE